

AIR TRANSPORT SERVICES

Agreement between the UNITED STATES OF AMERICA and BURMA

- Signed at Rangoon September 28, 1949
- Entered into force September 28, 1949

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(III)

AIR TRANSPORT AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF BURMA

The Government of the United States of America and the Government of the Union of Burma,

Desiring to conclude an agreement for the purpose of promoting direct air communications between their respective territories,

Have accordingly appointed authorized representatives for this purpose, who have agreed as follows:

ARTICLE 1

For the purposes of the present Agreement, and its Annex, except where the text provides otherwise:

(A) The term "aeronautical authorities" shall mean in the case of the United States of America, the Civil Aeronautics Board or any person or agency authorized to perform the functions exercised at the present time by the Civil Aeronautics Board and, in the case of the Union of Burma, the Ministry of Transport and Communications, or any person or agency authorized to perform the functions exercised at present by the said Ministry of Transport and Communications.

(B) The term "designated airlines" shall mean those airlines which the aeronautical authorities of one of the contracting parties have notified in writing to the aeronautical authorities of the other contracting party as the airlines which it has designated in conformity with Article 3 of the present Agreement for the routes specified in such designation.

(C) The term "territory" shall have the meaning given to it by Article 2 of the Convention on International Civil Aviation, signed at Chicago on December 7, 1944. [1]

(D) The definitions contained in paragraphs (a), (b), and (d) of Article 96 of the Convention on International Civil Aviation signed at Chicago on December 7, 1944 shall be applied to the present Agreement.

ARTICLE 2

Each contracting party grants to the other contracting party the rights as specified in the Annex hereto necessary for establishing the international civil air routes and services therein described, whether

¹ Treaties and Other International Acts Series 1591; 61 Stat. 1180.

such services be inaugurated immediately or at a later date at the option of the contracting party to whom the rights are granted.

ARTICLE 3

Each of the air services so described may be placed in operation as soon as the contracting party to whom the rights have been granted by Article 2 to designate an airline or airlines for the route concerned has authorized an airline for such route, and the contracting party granting the rights shall, subject to Article 7 hereof, be bound to give the appropriate operating permission to the airline or airlines concerned; provided that the airlines so designated may be required to satisfy the competent aeronautical authorities of the contracting party granting the rights that they are qualified to fulfill the conditions prescribed under the laws and regulations normally applied by these authorities before being permitted to engage in the operations contemplated by this agreement; and provided that in areas of hostilities or of military occupation, or in areas affected thereby, such operations shall be subject to the approval of the competent military authorities.

ARTICLE 4

In order to prevent discriminatory practices and to assure equality of treatment, both contracting parties agree that:

(a) Each of the contracting parties may impose or permit to be imposed on the designated airlines of the other contracting party just and reasonable charges for the use of public airports and other facilities under its control. Each of the contracting parties agrees, however, that these charges shall not be higher than would be paid for the use of such airports and other facilities by its national aircraft engaged in similar international services

(b) The fuel, lubricating oils and spare parts introduced into the territory of one contracting party by or on behalf of airlines of the other contracting party, and intended solely for use by aircraft of the designated airlines of such contracting party shall, with respect to the imposition of customs duties, inspection fees or other national duties or charges by the contracting party whose territory is entered, be accorded the same treatment as that applying to national airlines and to airlines of the most-favored nation.

(c) The fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board aircraft of the designated airlines of one contracting party authorized to operate the routes and services described in the Annex shall, upon arriving in or leaving the territory of the other contracting party, be exempt from customs, inspection fees or similar duties or charges, even though such supplies be used or consumed by such aircraft on flights in that territory.

ARTICLE 5

Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one contracting party and still in force shall be recognized as valid by the other contracting party for the purpose of operating the routes and services described in the Annex, provided that the requirements under which such certificates or licenses were issued or rendered valid are equal to or above the minimum standards which may be established pursuant to the Convention on International Civil Aviation. Each contracting party reserves the right, however, to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licenses granted to its own nationals by another State.

ARTICLE 6

(a) The laws and regulations of one contracting party relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of the airlines designated by the other contracting party, and shall be complied with by such aircraft upon entering or departing from or while within the territory of the first party.

(b) The laws and regulations of one contracting party as to the admission to or departure from its territory of passengers, crew, or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew or cargo of the airlines designated by the other contracting party upon entrance into or departure from, or while within the territory of the first party.

ARTICLE 7

Notwithstanding the provisions of Article 10 hereof, each contracting party reserves the right to withhold or revoke the exercise of the rights specified in the Annex to this Agreement by an airline designated by the other contracting party in the event that it is not satisfied that substantial ownership and effective control of such airline are vested in nationals of the other contracting party, or in case of failure by such airline or the Government designating such airline, to comply with the laws and regulations referred to in Article 6 hereof, or otherwise to perform its obligations hereunder, or otherwise to fulfill the conditions under which the rights are granted in accordance with this Agreement and its Annex.

ARTICLE 8

This Agreement and all contracts connected therewith shall be registered with the International Civil Aviation Organization.

ARTICLE 9

Existing rights and privileges relating to air transport services which may have been granted previously by either of the contracting parties to an airline of the other contracting party shall continue in force according to their terms.

ARTICLE 10

Either of the contracting parties may at any time notify the other of its intention to terminate the present Agreement. Such a notice shall be sent simultaneously to the International Civil Aviation Organization. In the event such communication is made, this Agreement shall terminate one year after the date of receipt of the notice to terminate, unless by agreement between the contracting parties the communication under reference is withdrawn before the expiration of that time. If the other contracting party fails to acknowledge receipt, notice shall be deemed as having been received 14 days after its receipt by the International Civil Aviation Organization.

ARTICLE 11

In the event either of the contracting parties considers it desirable to modify the routes or conditions set forth in the attached Annex, it may request consultation between the competent authorities of both contracting parties, such consultation to begin within a period of sixty days from the date of the request. When these authorities mutually agree on new or revised conditions affecting the Annex, their recommendations on the matter will come into effect after they have been confirmed by an exchange of diplomatic notes.

ARTICLE 12

If a general multilateral air transport Convention accepted by both contracting parties enters into force, the present Agreement shall be amended so as to conform with the provisions of such Convention.

ARTICLE 13

Except as otherwise provided in this Agreement or its Annex, any dispute between the contracting parties relative to the interpretation or application of this Agreement or its Annex, which cannot be settled through consultation, shall be submitted for an advisory report to a tribunal of three arbitrators, one to be named by each contracting party, and the third to be agreed upon by the two arbitrators so chosen, provided that such third arbitrator shall not be a national of either contracting party. Each of the contracting parties shall designate an arbitrator within two months of the date of delivery by either party to the other party of a diplomatic note requesting arbitration

of a dispute; and the third arbitrator shall be agreed upon within one month after such period of two months. If the third arbitrator is not agreed upon, within the time limitation indicated, the vacancy thereby created shall be filled by the appointment of a person, designated by the President of the Council of ICAO, from a panel of arbitral personnel maintained in accordance with the practice of ICAO. The executive authorities of the contracting parties will use their best efforts under the powers available to them to put into effect the opinion expressed in any such advisory report. A moiety of the expenses of the arbitral tribunal shall be borne by each party.

ARTICLE 14

Changes made by either contracting party in the routes described in the schedules attached except those which change the points served by these designated airlines in the territory of the other contracting party shall not be considered as modifications of the Annex. The aeronautical authorities of either contracting party may therefore proceed unilaterally to make such changes, provided, however, that notice of any change is given without delay to the aeronautical authorities of the other contracting party.

If such other aeronautical authorities find that, having regard to the principles set forth in Section VII of the Annex to the present Agreement, interests of their airlines are prejudiced by the carriage by the airlines of the first contracting party of traffic between the territory of the second contracting party and the new point in the territory of the third country, the authorities of the two contracting parties shall consult with a view to arriving at a satisfactory agreement.

ARTICLE 15

This Agreement, including the provisions of the Annex thereto, will come into force on the day it is signed.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed the present Agreement.

Done in duplicate at Rangoon this 28th day of September, 1949.

For the Government of the United States of America:

[SEAL] J KLAHR HUDDLE

For the Government of the Union of Burma:

[SEAL] U E MAUNG

ANNEX

SECTION I

The Government of the Union of Burma grants to the Government of the United States of America the right to conduct air transport services by one or more airlines of United States nationality designated by the latter country on the routes, specified in Schedule One attached, which transit or serve commercially the territory of the Union of Burma.

SECTION II

The Government of the United States of America grants to the Government of the Union of Burma the right to conduct air transport services by one or more airlines of the Union of Burma nationality designated by the latter country on the routes, specified in Schedule Two attached, which transit or serve commercially the territory of the United States of America.

SECTION III

One or more airlines designated by each of the contracting parties under the conditions provided in this Agreement will enjoy, in the territory of the other contracting party, rights of transit and of stops for non-traffic purposes, as well as the right of commercial entry and departure for international traffic in passengers, cargo and mail at the points enumerated on each of the routes specified in the Schedules attached.

SECTION IV

The air transport facilities available hereunder to the travelling public shall bear a close relationship to the requirements of the public for such transport.

SECTION V

There shall be a fair and equal opportunity for the airlines of the contracting parties to operate on any route between their respective territories (as defined in the Agreement) covered by this Agreement and Annex.

SECTION VI

In the operation by the designated airlines of either contracting party of the trunk services described in the present Annex, the interest of the designated airlines of the other contracting party shall be taken into consideration so as not to affect unduly the services which the latter provides on all or part of the same routes.

SECTION VII

It is the understanding of both contracting parties that services provided by a designated airline under the present Agreement and Annex shall retain as their primary objective the provision of capacity adequate to the traffic demands between the country of which such airline is a national and the country of ultimate destination of the traffic. The right to embark or disembark on such services international traffic destined for and coming from third countries at a point in the territory of the other party on the routes specified in the present Annex shall be applied in accordance with the general principles of orderly development to which both contracting parties subscribe and shall be subject to the general principle that capacity should be related:

- (a) to traffic requirements between the country of origin of the air service and the countries of destination;
- (b) to the requirements of through airline operation; and
- (c) to the traffic requirements of the area through which the airline passes after taking account of local and regional services.

SECTION VIII

In so far as the designated airlines of one contracting party may be temporarily prevented through difficulties arising from war from taking immediate advantage of the opportunity referred to in Section V above, the situation shall be reviewed between the contracting parties with the object of facilitating the necessary development, as soon as the designated airlines of the first contracting party are in a position increasingly to make their proper contribution to the service.

SECTION IX

It is the intention of both contracting parties that there should be regular and frequent consultation between their respective aeronautical authorities (as defined in the Agreement) and that there should thereby be close collaboration in the observance of the principles and the implementation of the provisions outlined in the present Agreement and Annex.

SCHEDULE 1

The airlines designated by the Government of the United States shall be entitled to operate air services on air routes specified in this paragraph via intermediate points in both directions, and to make scheduled landings in Burma at the points specified:

The United States through Europe, North Africa, the Near East, Pakistan and India to Rangoon and Mandalay and beyond.

SCHEDULE 2

The airlines designated by the Government of the Union of Burma shall be entitled to operate air services and to make scheduled landings in the United States along a specific route or routes to be agreed upon by the Governments of the United States and the Union of Burma at such time as the Government of the Union of Burma decides to commence operations.

SCHEDULE 3

On each of the above routes the airline authorized to operate such route may operate nonstop flights between any of the points on such route omitting stops at one or more of the other points on such route.

[SEAL]

[SEAL]

